

**Town of Milford  
Zoning Board of Adjustment Minutes**

**June 9, 2016  
Case #2016-10  
Angel Communications, LLC  
Special Exception**

Present: Kevin Johnson, Chairman  
Michael Thornton  
Joan Dargie  
Jason Plourde  
Len Harten

Absent: Kathy Bauer, Board of Selectmen Representative

Secretary: Peg Ouellette

The applicant Angel Communications, LLC for the property located at 21 Cottage Street, Milford, NH, tax Map 25 Lot 112 is requesting a Special Exception from the Milford Zoning Ordinance, Article V, Section 5.05.2.A.3 to allow the construction of a stairway and landing within the dimensional front setback for Building 1 adjacent to Garden Street and an access ramp within the side dimensional setback for Building 2 located in interior of the property.

### **Minutes Approved on July 7, 2016**

Kevin Johnson, Chairman, opened the meeting by stating that the hearings are held in accordance with the Town of Milford Zoning Ordinance and the applicable New Hampshire Statutes. He then introduced the Board, as well as Robin Lunn of the Community Development office, who is not a member of the Board and would not be voting. He continued by informing all of the procedures of the Board. Chairman Johnson stated there was a full agenda with four cases tabled from the previous meeting. Their rules permit adjournment by 10 p.m. and tabling cases not yet heard, noting that, normally, a case would be considered at the next regular meeting with no additional notice to applicant or abutters.

Chair read the notice of hearing for the first case on the agenda. The Secretary read the list of abutters. Scott McIntyre of Angel Communications and Nathan Chamberlain of Fieldstone Land Consultants (on behalf of the applicant) were present.

K. Johnson asked applicant to present his case.

N. Chamberlain came forward. He said property was old Fred Fuller distribution center and warehouse. Small office, two buildings. Applicant purchased it and has gotten site plan approval for a dance studio in main building. Angel Communications will be in back – small office and warehouse. Warehouse needs quite a bit of work to comply with standards and access. They were there this evening to request to build stairways and ramps for access to the building within setbacks. He pointed out on the plan the extension of Garden St. which is a “paper street”, never really a street, in relation to their parcel and American Legion parcel. Encroaching in setback off the “paper street” with stairways. Would like to get the paper street “paper street” extinguished ~~and~~ because there would no longer be a setback. Odd situation. He pointed out the main entrance and a drop off for customers dropping off kids, and entrance with stairs, is

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not the primary entrance. So there will be safe egress to the sidewalk. Another area for ADA access because the finished floor is 4 ft above grade, so ramp is necessary. Currently there is a carport going up to the lot line. Taking that down and putting ramp in, within the side setback also.

K. Johnson asked for questions from the Board.

L. Harten asked how far the building 2 was from the American Legion parking lot. Concerned with traffic leaving Legion. He believed they exit on that side. Was the broken line a fence?

N. Chamberlain that was their edge of pavement. He pointed out their parking lot and access.

K. Johnson and L. Harten conferred over the plan. L. Harten voiced concern that access ramp and landing were relatively close to the Legion parking.

N. Chamberlain said that will be elevated a foot or so above ground and have a ramp. Will be protected from Legion side.

L. Harten said there was no protection for cars leaving Legion parking lot.

S. McNulty pointed out a dotted line through the paper street where drive for ramp is –where they will have ramp by parking spots is underneath an existing pole barn. Could leave the pole barn up and would not be anywhere near parking. But pole barn was an eyesore. Will still be quite a bit of space from handicapped access.

L. Harten asked if broken line was actually a driveway.

S. McNulty said it was.

L. Harten asked the distance from the driveway to the access ramp and landing.

N. Chamberlain said approx. 6 to 8 ft.

L. Harten said the ramp and landing will be above grade?

N. Chamberlain said with a handrail separating it.

K. Johnson said in essence the ramp will incline upward from north to south.

N. Chamberlain said 8 ft. of green space between Legion parking and the ramp.

K. Johnson pointed out dimension. L. Harten looking for distance from the end of their building to the pavement.

N. Chamberlain said about 8 ft.

S. McIntyre said to the parking area to the actual driveway to where they ramp out was much further.

K. Johnson pointed to his copy of the plan; discussion between him and L. Harten. K. Johnson said drive portion was 50 ft. from where cars would be moving to the ramp.

L. Harten said he was worried about cars parking.

S. McIntyre thought that was his concern. That was why he pointed out the distance from the traffic pattern to the handicapped ramp.

L. Harten asked what that was.

N. Chamberlain said 50 ft.

S. McIntyre asked him to double check.

N. Chamberlain said 45 ft. – 50 ft. to ramp, 45 ft. to the landing.

K. Johnson said it was inclined going north side of the building to south moving away from the traffic area.

N. Chamberlain agreed.

J. Plourde said mention was made there may be a grassy area between parking area for Legion? 5 to 6 ft. with no vertical barrier separating?

N. Chamberlain said yes, a green strip. No barrier.

J. Plourde was most concerned if it was a dance studio because of kids, and parents picking up and dropping off.

N. Chamberlain said 95 percent of traffic will be for side and front.

J. Plourde asked if any elevation.

N. Chamberlain said no. It was pretty standard.

K. Johnson asked if ramp needed on Cottage St. side.

N. Chamberlain said that was at grade. Garage doors coming off.

K. Johnson asked if north side of building 1 would be just staircase with no additional landing.

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J. Chamberlain said no. It was a landing and a staircase.  
J. Plourde asked how far up.  
N. Chamberlain said 5 to 6 ft.  
S. McIntyre said they have to accommodate the down slope of the grade.  
M. Thornton said in response to criteria C, it says the site traffic will occur off-peak. When is peak?  
N. Chamberlain said 7:30 to 8:00 a.m. and 4:30 to 5:30 p.m. Most activity will be past 8. During the day, like any other school.  
L. Harten asked about evening.  
N. Chamberlain said latter part of the afternoon. Occasionally something in the evening.  
S. McIntyre said dance studio classes into the evening. But back building is just him and another person who will be there until 5 p.m.  
J. Plourde asked what Angel Communications was.  
S. McIntyre said it was a two-way radio business.  
K. Johnson asked for any other questions. There were none. He asked applicant to read the application into the record:  
S. McIntyre read the application (NOTE: He paraphrased much of the application; following is transcript of the actual application)

**Description of proposed use:**

To construct a stairway and landing for proposed side entrance at existing Building 1 and an access ramp, to the relocated doorway at Building 2. The stairway to Building 1 is in the front setback of a Class VI Road or “paper street” and the access ramp to Building 2 is in the footprint of an existing structure located side setback. A Special Exception, as specified in Article V Section 5.05.2.A.2 of the Zoning Ordinance, is requested to permit:

**1. The proposed use shall be similar to those permitted in the district:**

The site is located in the “mill yard” area of Milford and was developed prior to the establishment of zoning in town and very few of the properties in the area conform to current zoning. This special exception is required to bring the existing buildings into code compliance and to provide safe and adequate access to the existing buildings on site.

**2. The specific site is an appropriate location for the proposed use because:**

The site is an appropriate location because it is centrally located but out of high traffic areas so it is an ideal location for the proposed use. The proposed stairway and access ramp will provide safe access for patrons parking along the side of Building 1 and to the rear of the site.

**3. The use as developed will not adversely affect the adjacent area because:**

The site is currently developed as a warehouse and distribution facility. We believe that the proposed use will be less intense and most of the site traffic will occur “off peak.” The project will benefit the community by providing a centrally located dance studio. The project has been designed to meet all local regulations and this special exception is necessary to provide safe, compliant access to the existing buildings.

**4. There will be no nuisance or serious hazard to vehicles or pedestrians:**

Accommodations have been made for safe ingress and egress from the property as well as safe pedestrian access and off-street parking. This project will improve the current conditions on site and will improve the safety of the surroundings by defining and controlling traffic to and from the site and by providing off street parking that conforms to the town’s parking requirements.

**5. Adequate appropriate facilities will be provided for the proper operation of the proposed use because:**

The conditionally approved site plan establishes controlled traffic circulation patterns, off-street parking, safe pedestrian access, site lighting, storm water management, and utility and sanitary connections for the proposed use at the expenditure of considerable resources by the applicant. The project will be a benefit to the mill yard area and increase the value of the subject parcel and the surrounding area.

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K. Johnson commented re #2, he understood if they moved north side door several feet to right or left they would still be in the setback of that non-existent road?

N. Chamberlain agreed.

Re #4, K. Johnson said to provide safe egress. Most of the students will be dropped off in front. Re, #5, applicant is providing facilities that will be improving property and benefit to the town.

K. Johnson, after application was read, said there were no e-mails or letters received on this case, so he opened the meeting for public comment. There were none, so he closed the public comment portion of the meeting.

K. Johnson asked for any further questions from the Board.

J. Plourde asked what would happen if they moved stairs to the left or right; have they looked at moving ADA ramp to the parking field on other side?

N. Chamberlain said it wasn't considered because that as where the handicapped spot was. J. Plourde said they could move the handicapped spot. Any reason why not?

S. McIntyre said there was a bay door is for delivery. Would in way of handicapped ramp.

N. Chamberlain said there was more grade to make up there.

J. Dargie asked if application had been made to eliminate the paper street.

N. Chamberlain said not at this time.

J. Dargie asked if that was going to happen.

S. McIntyre said he wasn't sure what he needed to do. He knew town counsel, when he met with Planning Bd. and Selectmen, recommended that move forward on it. Selectmen and Planning Bd. are for it. Then Building 1 would not be an issue at all.

N. Chamberlain said if you went to middle of street for proposed line, would not be an issue.

L. Harten concerned that it appeared the snow storage would be right adjacent to the access ramp and landing and it that would affect access.

N. Chamberlain said landing won't get plowed on but in front of parking space there will be a small snow bank. It would be kept clear.

K. Johnson said that wasn't snow storage for entire parking lot, just for handicapped spaces.

N. Chamberlain said that was correct.

J. Plourde said that would help with vertical separation. Conversation between him and M. Thornton about protection and whether steel and concrete barriers would help. K. Johnson didn't think traffic into American Legion parking lot would have any effect from Building 2 because of way road is laid out and the way the landscape falls. Building 2 isn't the dance studio. Didn't see lot of kids being in that area. It is more of a business/customer area - mostly adults looking for the communications. He understood where Jason & Len were coming from. That was his first thought until they reviewed everything. It is two separate businesses and two separate buildings. Once he realized they will not have kids on that side of the property and jumping off ramp on the Legion side, was much more comfortable. If that were dance studio, he would have grave reservations. Because of nature of business to be conducted in that building, didn't see problem with ramp on that side.

N. Chamberlain said there was a stairway there which most people would use.

K. Johnson asked for any further questions from Board. None.

Discussion of criteria:

**A. The proposed use shall be similar to those permitted in the district:**

J. Plourde – yes. Did something for the town and look of the whole area. Knows what is currently there and what was there in past and had vision for future. These uses come into play for that.

M. Thornton – it is an improvement on what we see in area. Wouldn't want to hold it back by saying it is only as good as what we see.

L. Harten – agreed with Mike. Will be an improvement to the area. Building has been empty for a long time. Whole area is kind of like a millyard area. No problem with it.

J. Dargie – agreed it was similar to those permitted in the district.

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K. Johnson agreed with others. Use is similar. As Len pointed out, similar to an old millyard. Building existed before setback requirements, etc. Building a couple of feet from property line. Many buildings in the area in the same situation. To put in any kind of access to building, they will need some relief from the setback. It is similar to those in the district.

**B. The specific site is an appropriate location for the proposed use:**

M. Thornton – yes. Probably best site when consider traffic further down would be higher. Didn't see another place to put it.

J. Plourde – based on his first comments, it will be a great location for the use.

J. Dargie – It was an appropriate location

L. Harten – agreed. Not sure how to arrive at highest and best use of that building, but believed it was appropriate.

K. Johnson based on applicant presentation and testimony, they have given lot of thought and appropriate consideration to how best to control flow of people and material to those buildings and through area on the property so any encroachment into setback is the minimum necessary.

**C. The use developed will not adversely affect the adjacent area:**

J. Dargie – will not adversely affect adjacent area. Paper road is going away. Technically would not be reviewing this if that was the case now.

L. Harten – Didn't believe any adverse effect. Across the street is another storage building/office for Fuller Fuel. Didn't see anything around there that would be adversely affected.

J. Plourde – agreed with others. It may actually help revitalize area.

M. Thornton – yes, it will not adversely affect adjacent area.

K. Johnson – agreed. Didn't see how use planned for either building would adversely affect area or encroachment into the setback adversely affect anything else going on in area.

**D. There will be no nuisance or serious hazard to vehicles or pedestrians:**

L. Harten – Didn't believe there would be nuisance or serious hazard to either vehicles or pedestrians. Believed they have put in good effort to protect vehicles and pedestrians from the vehicles that might be entering – actually that is just an exit; entrance is on other side of building. Didn't believe any hazard.

J. Dargie – agreed with Len, especially with question about distance between the end of ramp and where people are driving by. Will be 50 ft., so it will be fine.

M. Thornton believed there would fewer hazards to pedestrians because of way it is located and fact that it is 2 ft above grade. On other end, believed that locations and hours of use, it would not be an issue.

J. Plourde – Kind of going back and forth. Didn't think a serious hazard. We site laid out and different uses, as far as kids in Building 1 and two guys in Building 2. What if uses change; or if American Legion use changes. Maybe additional measures. Didn't see problem with stairs but if something changes with these lots, they may want to have ability to take another look at it.

K. Johnson agreed with much of what Board said. They have done pretty good job of managing flow. However, if use were to change with minor adjustments to the traffic flow that could cover any potential hazard. As proposed toady, saw no nuisance or serious hazard to vehicles or pedestrians. They have defined access lane to front of the building to keep with flow of traffic. If this was set of building on Nashua or Elm St. it might be different, but this wasn't in a high traffic area. Vast majority of traffic will be there for a reason or exiting. Didn't see hazard to vehicles.

J. Dargie asked a question, per Len's comment. Vehicles only going to be exiting there? How are vehicles coming in for dance studio? Pointed out where right now Legion people coming out. How are they creating traffic in? If people are coming out, where are cars going in? S. McIntyre said there would be almost two lanes. Pole barn going away, which makes lot more

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room for pavement between. Current access to the building where dirt driveway goes, becomes a paved drive. J. Dargie said access to the office is what people are used to. S. McIntyre said Legion people will come out but quite a bit of room next to it for people to enter. J. Dargie said it won't all be exiting traffic, and you will have people going in opposite where they normally did. S. McIntyre said it was like two one-way driveways. J. Dargie asked if a barrier would separate? S. McIntyre said he didn't see a problem. If it becomes one they could paint lines. J. Dargie said dance studio would be open weekends? S. McIntyre said classes usually during week. Occasionally on Saturday.

L. Harten asked if suggestion was to expand the paved drive. S. McIntyre said yes. Gray area on plan will be paved. K. pointed it out on plan to L. L. Harten asked if it would have two-way traffic. S. McIntyre said yes. K. Johnson said three-way traffic – dance studio coming in and dance studio coming out. American Legion coming. Previous issue of marking traffic lanes was a Planning Bd issue. If they felt it was hazard, it was something they should discuss. With level of traffic, he didn't see an issue. Planning Bd may want to address it.

M. Thornton didn't think there would be maximum congestion and use of entrances and exits.

**E. Adequate appropriate facilities will be provided for the proper operation of the proposed use:**

K. Johnson said, from presentation, all necessary facilities will be provided. The turnout access, handicapped access, multiple points of entrance and egress.

J. Plourde asked if dance studio required handicapped space. S. McIntyre said there was one on front. J. Plourde said he agreed with K. Johnson.

M. Thornton believed they were all set. It had been pretty well done.

J. Dargie agreed.

L. Harten agreed. They spelled out in application that the traffic circulation will be controlled, parking is off-street, will be site lighting. Storm water management- haven't got into but assumes engineer has provided for that. S. McIntyre said yes. There is a storm water catch basin in the back. L. Harten agreed it would be adequate appropriate facilities for the operation.

K. Johnson, since they asked for additional information from the applicant, he re-opened the public comment portion of the meeting. There were none. He closed the public comment. The Board proceeded to vote on the criteria:

**Is the exception allowed by the ordinance?**

J. Plourde – yes; M. Thornton – yes; J. Dargie – yes; L. Harten – yes; K. Johnson – yes

**Are the specified conditions present under which the exception may be granted?**

M. Thornton – yes; J. Plourde – yes; L. Harten – yes; J. Dargie – yes; K. Johnson - yes

K. Johnson asked for a motion to approve Case #2016-10 Special Exception.

M. Thornton moved to approve.

J. Plourde seconded.

**Final Vote:**

**M. Thornton – yes**

**J. Plourde – yes**

**J. Dargie – yes**

**L. Harten – yes**

**K. Johnson – yes**

**Case #2106-10 request for Special Exception approved by 5 to 0 vote.**

K. Johnson informed applicant of the 30-day appeal period.

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